



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

February 9, 2005

CERTIFIED MAIL
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RETURN RECEIPT REQUESTED

LETTER OF DEFICIENCY
No. WMD 05-05

Cheshire Oil Company, Inc.
P.O. Box 586
Keene, NH 03431-0586

Attn: G. Bryant Robertson, Vice President

Re: Cheshire Oil Company, Inc.
678 Marlboro St
Keene, New Hampshire
EPA ID # NHD986482750

Dear Mr. Robertson:

On April 2, 2004, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Cheshire Oil Company, Inc. ("Cheshire") in Keene, NH. The purpose of the inspection was to determine Cheshire's compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

1. Env-Wm 502.01 – Hazardous Waste Determination

At the time of inspection, Cheshire was manifesting "gasoline and water" as a "D001/D018" hazardous waste and was not managing the hazardous waste gasoline and water according to the requirements of the Hazardous Waste Rules.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that Cheshire manage the hazardous waste gasoline and water according to the rules of Env-Wm 500, including, but not limited to:

- a. The Environmental and Health Requirements specified in Env-Wm 506;

- b. The Storage Requirements specified in Env-Wm 507.01;
- c. The Storage Time Requirements specified in Env-Wm 507.02;
- d. The Packaging/Labeling/Pre-transport Requirements specified in Env-Wm 507.03;
- e. Full Quantity Generator requirements, as specified in Env-Wm 509; and
- f. The Delivery Requirements specified in Env-Wm 511.01.

Alternatively, Cheshire may handle the gasoline and water as an off-specification commercial chemical product instead of handling it as a hazardous waste. The gasoline and water mixture is considered an off-specification product and is excluded from being a solid waste when it is recovered and used as a fuel. Therefore, fuel and water mixtures generated as a result of fuel management activities may be managed as an off-specification commercial chemical product and not as a hazardous or solid waste provided that the mixture only contains fuel and water, and the fuel portion is legitimately reclaimed and used as a commercial fuel. Enclosed please find the DES Environmental Fact Sheet # WMD-HW-30 "Management of Fuel and Water Mixtures" to aid you in determining how to properly handle this material as an off-specification commercial chemical product.

If these mixtures are not managed as off-specification commercial chemical products, they are considered wastes. The *Hazardous Waste Rules* require that all generators of waste determine if their waste is a hazardous waste. Wastes determined to be hazardous must be handled pursuant to the requirements of the *Hazardous Waste Rules*.

On January 20, 2005 DES received a subsequent notification from Cheshire, via telephone, that changed Cheshire's generator status from a "Full Quantity Generator" of hazardous waste to "Not a Generator" of hazardous waste. If Cheshire still generates a gasoline and water mixture, please provide to DES documentation that the gasoline and water mixture is an off-specification commercial chemical product, being managed according to the guidelines set forth in DES Environmental Fact Sheet # WMD-HW-30 "Management of Fuel and Water Mixtures."

2. Env-Wm 1102.03 - Universal Waste Management

At the time of the inspection, two (2) universal waste batteries were not marked with the words "Universal Waste – Battery," "Waste Battery," or "Used Battery."

Env-Wm 1102.03 which references Env-Wm 1109.04, requires universal waste handlers of batteries to ensure all batteries or containers holding universal waste batteries to be clearly labeled or marked with any of the following: "Universal Waste – Battery(ies)," "Waste Battery(ies)," or "Used Battery(ies)."

DES requests that Cheshire clearly label or mark its universal waste batteries with any of the following: "Universal Waste – Battery," "Waste Battery," or "Used Battery."

3. Env-Wm 1102.05– Universal Waste Management

At the time of the inspection, two (2) universal waste batteries, located outside were not covered.

Env-Wm 1102.05 requires universal waste stored outside to be covered to prevent precipitation from coming in contact with the waste.

DES requests that Cheshire ensure the universal waste batteries stored outside are covered to prevent precipitation from coming in contact with the waste.

Alternatively, Cheshire may elect to manage the universal waste batteries as spent lead-acid batteries being reclaimed, as specified in Env-Wm 809.02. Env-Wm 809.02 requires that generators and collectors of spent lead-acid batteries, destined for reclamation, store the batteries in a manner designed to ensure that battery housings do not break or leak acid onto the soil or into any ground waters or surface waters. At the time of the inspection, Cheshire was storing cracked automotive lead-acid batteries outside, on a deteriorated and cracked asphalt surface, in a manner that subjected them to potential damage and/or breakage. Please refer to the enclosed DES Environmental Fact Sheet #WMD-SW-4 "Management of Used Motor Vehicle Batteries" to assist you with the proper management of spent lead-acid batteries being reclaimed.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by Cheshire can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Cheshire including issuing an order requiring that the deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Robert Bishop, Waste Management Specialist
DES/WMD
P.O. Box 95
Concord, New Hampshire 03302-0095

COPY

Enclosed you will find a copy of the completed Hazardous Waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, the Division currently maintains a Hazardous Waste Assistance Hotline which is available for the public to contact our knowledgeable staff of hazardous waste inspectors. The hazardous waste staff members are available to answer questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program, including the administrative plans and documents required under the Hazardous Waste Rules. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets on specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policies, regulatory interpretation letters and networking with other state or federal agencies to answer any questions at a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM toll-free at (1-866) HAZ-WAST (in-state only) or at (603) 271-2942.

We regret the length of time taken to formally report our findings on your inspection but believe a careful review of all the hazardous waste issues involved regarding the gasoline and water mixture was required for the benefit of both Cheshire and DES. In fact, this inspection was one of a series of inspections conducted to better understand the current management of gasoline and water mixtures so that an appropriate policy could be established as seen through the attached fact sheet.

Should you have any questions concerning this letter, or on the proper management of hazardous waste, please contact the lead inspector, Robert Bishop, or me, at (603) 271-2942. Thank you for your cooperation.

Sincerely,



John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD
Paul L. Heirtzler, P.E., Administrator, Waste Management Programs, WMD
Gretchen Hamel, Administrator, DES Legal Unit

E-mail: JJD/SD

Enclosure: Hazardous Waste Generator Inspection Report
DES Environmental Fact Sheet # WMD-HW-30 "Management of Fuel and Water Mixtures"
DES Environmental Fact Sheet #WMD-SW-4 "Management of Used Motor Vehicle Batteries"

